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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NGUYEN, CAM LINH T	
ART UNIT	**PAPER NUMBER**
2161	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/004,514	ELKAN, CHARLES	
	Examiner	Art Unit	
	CamLinh Nguyen	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1, 4 – 7, 10 – 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 4 – 7, 10 – 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office Action is response to amendment filed on 9/22/05.

2. Applicant's responses to rejection under 35 U.S.C. 112, second paragraph have been considered. Consequently, rejection under 35 U.S.C. 112, second paragraph is withdrawn.

3. Claims 2 – 3, 8 – 9, have been cancelled. Claims 1, 4 – 7, 10 – 30 are currently pending.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 4 – 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is based on whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological art fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In Bowman (Ex parte Bowman, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished), the board affirmed the rejection under U.S.C. 101 as being directed to non-statutory subject matter. Although Bowman discloses transforming physical media into a chart and physically plotting a point on said chart, the Board held that the claimed invention is nothing more than an abstract idea, which is not tied to any technological art or environment.
In the present case, although claims 4 - 15 recite an abstract idea of a method for obtaining and automatically associating a quality value to an item of data, however, the language of the claims raise a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101, which can be implemented by the mind of a person or by the use of a pencil and paper. In another words, since the claimed invention, as a whole, is not within the technological arts as explained above, these claims only constitute an idea and does not produces a useful, concrete, and tangible result, thus, it is deems to be directed to non-statutory subject matter.

6. To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of

application amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 4 – 7, 10 – 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agrawal et al (U.S. 6,233,575) in view of Sean Suchter (U.S. 6,675,161 B1).

♦ As per claims 4, 16,

Agrawal et al [Agrawal] discloses a method of obtaining and automatically associating a quality value to an item of data comprising:

- "Obtaining at least one item of data from a source" See col. 10, lines 24 - 37
- "Obtaining labels for at least one of said item of data" See col. 10, lines 12 - 22. As defined in the disclosure page 15, labels are provided by human and indicate level of quality, interestingness. Agrawal teaches that the documents are classified in a hierarchical order (see Fig. 2), which includes a plurality of levels of quality. Therefore, the "labels" corresponds to the "categories label" or "topics labels" of the resources.
- "Selecting items of data with certain labels to form training data" See col. 10, lines 38 - 46.

- "Creating a profile from said training data" See fig. 3, element 49. The "profile" corresponds to the "class models" and the "statistic information" (See col. 11, lines 20 - 25).
- "Associating a quality value to at least one of said items of data using said profile" See col. 9, lines 4 – 12.

Agrawal does not clearly disclose that the value is a quality value and the quality value is based on low-level features of said item selected from the group consisting of length, vocabulary, ... reading grade level..." However, Suchter, on the other hand, discloses a method for classify documents into plurality of categories (col. 11, lines 9 – 11, Suchter) comprising a quality value field for the user to grade the documents (col. 11, lines 59 – 64, claim 3 of Suchter). The quality value is associated with the document (col. 20, lines 31 – 52 of Suchter).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the quality value of Suchter into the invention of Agrawal because the combination would provide the user more accurate result in the search process.

♦ As per claims 5, 17, the combination of Agrawal and Suchter disclose:

- "Receiving requests from clients" See col. 9, lines 35 – 38 of Agrawal.
- Transmitting at least one item of data according to said request and said associated values to said client" See col. 9, lines 40 – 49 of Agrawal.

♦ As per claims 6, 18, the combination of Agrawal and Suchter disclose:

- "Introducing at least one new item of data to said training data and generating a new profile from said training data" See Fig. 4, element 62, 66 of Agrawal.

♦ As per claims 7, the combination of Agrawal and Suchter disclose:

- "Profile is automatically generated" See Fig. 4, element 68 of Agrawal.

♦ As per claims 10 - 11, 19 – 22, 30, the combination of Agrawal and Suchter disclose:

- " Quality value is measured on a quantitative scale of measurement" or "categorical scale" col. 11, lines 59 – 64, claim 3 of Suchter.

♦ As per claims 12 - 13, 23 – 24, 26 – 27, the combination of Agrawal and Suchter disclose:

- "Storing said items of data in a database" and "Storing said associated values in a database" See col. 8, lines 30 – 36 of Agrawal.

♦ As per claims 14 - 15, the combination of Agrawal and Suchter disclose:

- "Obtaining labels … is accomplished by a human providing said labels" Agrawal teaches that the documents are classified in a hierarchical order (see Fig. 2), which includes a plurality of levels of quality. Therefore, the "labels" corresponds to the "categories label" or "topics labels" of the resources.

♦ As per claims 25, 28 - 29, the combination of Agrawal and Suchter disclose:

Claims 25, 28 - 29 are rejected based on the rejection of claims 4 - 5, and 9 of Agrawal.

♦ As per claim 1, the combination of Agrawal and Suchter disclose:

With all limitation as claimed in claim 4, further claim 1 comprising a "downloading component for obtaining item data" See col. 10, lines 30 – 37 of Agrawal.

Response to Arguments

9. Applicant's arguments filed 9/22/2005 have been fully considered but they are not persuasive.

Applicant argues about the 101 rejections based on claims 1, 16, 25, and 28, not claims 4 – 15. In claim 4, applicant discloses a method of obtaining a quality value. However, as indicated above the basis of this rejection is based on whether the invention produces a useful, concrete, and tangible result. Applicant does not show where the invention can be practiced or this is a practical application. The step of obtaining and associated a quality value does not produce a tangible result. Therefore, the claims are still non statutory.

In response to applicant's argument that there is lacking motivation and support the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's argument that the Agrawal reference teaches away from the invention, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

Applicant argues about the term "quality value" was used in the claim invention is different than the references. The Examiner respectfully disagrees.

Referring to claim 4, Applicant defines that the quality value can be in the form of length, vocabulary, fraction of words spelled correctly, title, author, reading grade level... The Suchter

also discloses a quality value based on how well the document matches the category and the user can give them a "reading grade level" such as "good" or not (col. 20, lines 31 – 48 of Suchter). Clearly, this is a reading grade level from the user to the documents, and therefore, the combination of Agrawal and Suchter still can be applied to the invention.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272-4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN

FRANTZ COBY
PRIMARY EXAMINER